on the question of the proration of estate taxes, adjudging that plaintiff recover $1,485,293.86 with interest and retaining jurisdiction for further proceedings. 222 F. Supp. 446. Appeal by the Executor from the failure to include the widow's allowance as part of the marital deduction not argued, *Jackson* vs. *United States,* 376 U.S. 503 (1964), conceded to be controlling.

Reversed.

CURTISS K. THOMPSON, New Haven, Conn. (John H. Weir, of counsel), *for Plaintiff-Appellee-Appellant.*

JOHN B. JONES, JR., attorney, Department of Justice, Washington, D.C. (Louis F. Oberdorfer, Assistant Attorney General, Lee A. Jackson, Robert N. Anderson, Timothy B. Dyk, Benjamin N. Parker, attorneys, Department of Justice, Washington, D.C., of counsel, Robert C. Zampano, United States Attorney, District of Connecticut, on the brief), *for Defendant - Appellant - Appellee.*

MOORE, *Circuit Judge:*

The Second National Bank of New Haven, Executor of the Will of Frederick F. Brewster (referred to as the executor * and the Bank), brought this suit to recover federal estate taxes in excess of $1,600,000 allegedly assessed erroneously and illegally against the estate and paid under protest. The facts are not in dispute.

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* An individual executor resigned.

Frederick F. Brewster, a resident of Connecticut, died on September 16, 1958. By will dated June 5, 1958, he made certain specific bequests and directed that "the rest, residue and remainder" be distributed: one-third "thereof" to the Bank as trustee in trust to pay the income therefrom to his wife, Margaret, for life and upon her death to convey the principal to three of his children; and two-thirds to the trustee to be held in separate trusts for his grandchildren, the trusts to terminate at various times specified in the will. On July 1, 1958, by codicil undoubtedly designed to qualify his wife's one-third for the marital deduction, as authorized by section 2056 of the Internal Revenue Code of 1954, he modified the will to give her a power of appointment over the principal of her one-third; if not exercised, the principal was to go to his three children originally named. In all other respects, except one specific bequest, the will was expressly republished and confirmed.

The will in its first paragraph [1] makes specific provision for the payment "out of my estate" of "death taxes" by directing the executor to pay them along with debts and funeral expenses. The taxes are defined as such as "may legally be assessed upon or with respect to any property which is required to be included in my gross estate under the provisions of any

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[1] "ONE: I direct my executors hereinafter named to pay out of my estate my just debts and funeral expenses and any death taxes which may be legally assessed upon or with respect to any property which is required to be included in my gross estate under the provisions of any death tax law. The provisions of any statute requiring the apportionment or proration of such taxes among the beneficiaries of this will or the transferees of such property, or the ultimate payment of such taxes by them, shall be without effect in the settlement of my estate."

death tax law." To make doubly certain that the beneficiaries not be charged with estate taxes prorated against their shares, the testator provided that: "The provisions of any statute requiring the apportionment or proration of such taxes among the beneficiaries of this will or the transferees of such property, or the ultimate payment of such taxes by them, shall be without effect in the settlement of my estate." The direction and intent set forth in paragraph "ONE" would seem to be clear and unambiguous to the effect that taxes were to come out of his residual estate and that despite any contrary statute the testator specifically wished to avoid any proration.

When the federal estate tax return was filed, Margaret's one-third share of the residue was computed before the residue was reduced by federal taxes, thus placing the entire tax burden on the two-thirds share passing to the testator's grandchildren. Accordingly, the executor reported a gross estate of $13,201,347.91 from which it deducted specific bequests, debts and administration expenses, the marital deduction comprising Margaret's undiminished share of the residue augmented by a "widow's allowance" of $350,000 made by the Connecticut Probate Court for the District of Hamden but reduced by $281,752.70 of "other death taxes." A taxable estate of $8,392,892.80 was declared on which a tax liability of $4,028,613.85 was reported.

Upon audit, the District Director of Internal Revenue (the Director) disallowed the $350,000 widow's allowance as a part of the marital deduction (one-third, $116,666.67 was allowed because it would otherwise have passed to the marital trust) and decreased the marital trust from $3,630,243.95 to $1,682,846.59. The latter reduction was based upon the Director's construction of paragraph "ONE" of the will as requiring the deduction from the gross estate of all federal, state and state succession taxes before the marital trust of one-

third of the residue could be computed. Thus, all the residuary legatees were required to share the tax burden equally. To arrive at his figure, he submitted an "explanation of items" showing an adjusted gross estate of $12,380,897.22 from which he deducted certain bequests, various state taxes and a federal estate tax ($5,108,442.48), leaving a residue of $5,048,539.76, one-third of which, $1,682,846.59, he allowed as the marital trust. Upon the basis of this adjustment, the Director by 30-day letter asserted a tax deficiency of $1,336,468.40 which the executor paid. This suit for refund followed on the theory that Margaret's share should not have been diminished by federal taxes, thus increasing the marital deduction and eliminating the assessed deficiency.

After receipt of the 30-day letter, the executor in November 1961 applied to the Probate Court in Connecticut for a determination as to how, under Conn. Gen. Stat. sections 12-400, 401(a), 404, 405 (1964 Rev.), the federal estate tax on the residuary bequests should be prorated between those bequests.[2] The Probate Court approved the executor's proposed

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[2] Section 12-401(a) is the most pertinent of these statutes and provides in part:

"*Proration of estate taxes. Procedure.* (a) When it appears from any administration account, or in any appropriate proceeding in the probate court that an executor, administrator, temporary administrator, trustee or other person acting in a fiduciary capacity has paid a death tax levied or assessed under the provisions of chapter 217, hereinafter called the Connecticut estate tax, or under the provisions of the United States internal revenue code or under any death tax law of the United States hereafter enacted, hereinafter called the federal estate tax, upon or with respect to any property required to be included in the gross estate of a decedent under the provisions of any such law, the amount of the tax so paid, except when a tes-

proration on the theory that it could not say that under state law there was "a clear and unambiguous direction against proration among shares of the residue; and such it must be if there is to be no proration in the residue [citing cases]."

Upon motion by the plaintiff-executor for summary judgment, the District Court held (1) that the widow's allowance of $350,000 did not qualify as part of the marital deduction; (2) that the Connecticut proration laws apply because there was no "clear and unambiguous direction" to the contrary; (3) that the federal court was not bound by the Probate Court's determination in virtually a non-adversary proceeding; and (4) that the marital trust was not to be reduced by any portion of federal estate tax liability.

Upon appeal the Government asserts error in the trial court's conclusion that the language of paragraph "ONE" of the will is not a clear and unambiguous direction against proration.

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[2] [Continued]

tator otherwise directs in his will or when, by written instrument executed inter vivos, direction is given for apportionment within the fund of taxes assessed upon the specific fund dealt with in such inter vivos instrument, shall, except as hereinafter provided in subsection (b), be equitably prorated among the persons interested in the estate to whom such property is or may be transferred or to whom any benefit accrues. Such proration shall be made in the proportion, as near as may be, that the value of the property, interest or benefit of each such person bears to the total value of the property, interests and benefits received by all such persons interested in the estate, except that, in making such proration, allowances shall be made for any exemptions granted by the act, imposing the tax and for any deductions allowed by such act for the purpose of arriving at the value of the net estate . . .".

The problem to be resolved is succinctly stated (in its brief) by the Executor:

> ". . . if the Connecticut proration statutes do not apply, as the United States contends, all of the federal estate tax is payable from the estate before the residuary is determined, the widow's trust of one-third of the residue bears one-third of the amount of the federal estate tax and the amount of the marital deduction is reduced by that one-third amount. On the other hand, if the Connecticut proration statutes do apply, as plaintiff contends, the amount of the widow's trust is determined before the payment of the federal estate tax, at least on the residue; that trust, being itself exempt from tax as part of the marital deduction, bears no part of such tax; and the marital deduction is the full amount of the property passing to the widow. Thus, the basic issue is whether or not the Connecticut proration statutes apply in this case."

It would be difficult to conceive of a clearer direction expressing the thought that death taxes, together with debts and funeral expenses, were to be paid out of the estate. The first sentence of Article One ("I direct my executors to pay out my just debts and funeral expenses and any death taxes . . .") has been held in cases where similar language was construed not only to shift the tax burden to the residue as an expense of administration, *Starr* vs. *Watrous*, 116 Conn. 448, 165 Atl. 459 (1933), but also as the equivalent of a direction against proration among the residuary legatees. *Crump* vs. *Crump*, 20 Conn. Supp. 471, 140 A.2d 143 (Super. Ct. 1957). The "inclusion of them [taxes] in the same classification as debts, funeral expenses . . ." is an expression of "an intention that they should be paid out of the estate in the same way and from the same funds as these other charges." *Starr* vs. *Watrous, supra*, 116 Conn. at , 165 Atl. at 460.

Any far-fetched doubt as to the testator's intent in the first sentence of paragraph "ONE" is quickly dispelled by the sentence in which he specifically declares that "the provisions of any statute requiring the apportionment or proration of such taxes among the beneficiaries * * * shall be without effect in the settlement of my estate." The trial court conceded that "the first sentence shifts the tax burden to the residue"; but was of the opinion that "the clause in the second sentence of Article one referring to the ultimate payment of taxes by them [the beneficiaries]" created a conflict with the first sentence and, therefore, an ambiguity in the direction against proration.

There are two fallacies in the trial court's position. First is the assumption that the "beneficiaries" in the second sentence are intended as the residual legatees only and, second, is the assumption, built upon the first, that the residuary legatees "are not to be held for the 'ultimate payment' of death taxes." From these assumptions, the court reaches the conclusion that, since "some legatees must pay the death taxes out of their shares of the estate," "to direct that neither pre-residuary [in the first sentence] nor residuary legatees [in the second sentence] are to be liable for death taxes, although testator must have known that the taxes must come from one or the other of these sources, renders such directions ambiguous." 222 F. Supp. at 454-55. But such ambiguity results only from the court's assumptions — not from the language of the will. The testator was not directing that his beneficiaries were not to be affected in any way by the payment of death taxes. His very explicit treatment of the subject in the initial paragraph evidences his awareness of the necessity of their payment. The sentence deals with the possible provisions of "any statute requiring the apportionment or proration of such taxes" or of [any statute requiring] "the ultimate

payment of such taxes by them." The "them" refers to "the beneficiaries of this will or the transferees of such property." The words "ultimate payment" can refer only to the type of statute which might require ultimate payment on an apportioned basis. Such statute the testator declared was to be "without effect in the settlement of my estate." Thus, in summary, the testator specifically wished to have death taxes paid out of his estate but without proration. Once these were paid, the executor could undertake to comply with his remaining wishes. Ultimately there would be a residue. *A fortiori* without tax deductions from the pre-residuary bequests, the residue would be diminished by the federal estate tax and each of the three trusts equally diminished by one-third of that amount.

Nor can ambiguity be found in the testator's republication of his will to qualify the marital trust under section 2056. The trial court also found an ambiguity in the fact that a direction against statutory proration was included in the original will although the marital trust was then not qualified as a deduction under Section 2056 and was not insulated from the burden of federal estate taxes by the Connecticut proration statutes. The court reasoned that "to attribute to the testator a direction against proration where no proration was possible, would render uncertain what the testator 'did * * * mean by what he did say.'" 222 F. Supp. at 454. The modification in giving his wife a power of appointment over her one-third share does not bespeak any intention to alter his wishes expressed in paragraph "ONE," which was specifically republished and confirmed. Moreover, the will in any event would speak as of the date of death when proration under the Connecticut statutes presented a definite problem to be guarded against. *Union & New Haven Trust Co.* vs. *Sullivan*, 142 Conn. 685, 116 A.2d 908 (1955); *Mead* vs. *Close*, 115 Conn. 443, 161 Atl. 799 (1932); *Travis* vs. *Wolcottville School Soc'y*, 113

Conn. 618, 155 Atl. 904 (1931). With his attention focused on the consequences of the marital deduction change, the testator had ample opportunity to consider on republication any further special tax treatment for his wife's one-third share had he desired to do so. Thus, the will and codicil must be considered as "the expression of a single testamentary act." *Appeal of Shey*, 73 Conn. 122, 124, 46 Atl. 832 (1900). The reasoning in the opinion of the New York Court of Appeals in *In the Matter of Ellen W. Duryea*, 277 N.Y. 310, 317, 14 N.E. 2d 369, 371 (1938), is persuasive, the court saying:

> "It is clear that it was the intent of the testatrix to direct payment of all gifts, legacies and devises provided for under her will free from and without deduction on account of taxes properly assessed on account of such gifts, legacies and devises, and that the taxes thereon should be paid out of her residuary estate. It must be assumed, since she affirmed that part of her original will in the codicil by which she gave the powers of appointment, that it was her intention that the taxes assessed on gifts made by her under those powers should likewise be payable out of her residuary estate."

The courts would indeed be making a new will for the testator if paragraph "ONE" were to be interpreted as a direction that federal estate taxes not be paid "out of my estate" but that they be borne solely by the "two-thirds" trusts for the grandchildren. The codicil shows a desire to qualify one-third of the residue as a marital deduction. It does not disclose an intention to have this part of the residue in effect tax free and grossly disproportionate to the other two-thirds. That which the testator did not choose to do during his lifetime the courts should not do after his death.

The executor and the Government have made extensive arguments as to the effect of the Connecticut Probate Court's adjudication that the Connecticut proration statutes applied. The trial court after carefully considering the arguments and the many relevant decisions concluded that "the decrees of the Connecticut Probate Court — which is not a court of record and most of the judges of which are laymen, not lawyers — under no circumstances can be construed as binding and conclusive upon a federal court in construing and applying the federal revenue laws." 222 F. Supp. at 457. This court is in accord with the trial court's conclusion as to the effect of the state decree, see *Estate of Hamilton H. Peyton* vs. *Commissioner*, 323 F.2d 438 (8th Cir. 1963), since under Connecticut law the Probate Court's decisions are not binding on the state's higher courts, *Heiser* vs. *Morgan Guaranty Trust Co.*, 150 Conn. 563, 192 A.2d 44 (1963), and are even subject to collateral attack in another probate district, *Culver's Appeal from Probate*, 48 Conn. 165, 172-174 (1880). Under the circumstances, it was unnecessary "to make a finding as to whether the proceedings in the Probate Court were collusive or non-adversary in nature" and the court properly refrained from so doing.

The question of the District Court's failure to include the $350,000 widow's allowance is no longer before this court because the executor concedes that the Supreme Court's decision in *Jackson* vs. *United States*, 376 U.S. 503 (1964), handed down after the trial court's decision and before argument of this appeal, is controlling. In that decision, the Supreme Court held, as did the trial court here, that the allowance was a terminable interest and, therefore, did not qualify for the marital deduction.

Nor is the question of the proper computation of the judgment before us in view of our conclusion that the proration statutes do not apply.

As the Government states (in brief), "In this unusually complicated estate tax case the sole issue is the amount of the marital deduction allowed by Section 2056 of the Internal Revenue Code of 1954 * * *." The intricate algebraic formulae and the arithmetical backing and filling required to compute the tax attest to this complexity. See, *e.g.*, 1 CCH Fed. Est. & Gift Tax Rep., ¶ 2090, at 3056-3087, dealing with the valuation of the marital deduction.

By this decision construing paragraph "ONE" to direct that the proration laws of Connecticut do not apply, we do not intend to foreclose the executor or the Government from making such adjustments or revisions in the federal estate tax as may be necessary to give full advantage to the estate of the marital deduction as it may be properly computed in accordance with such construction.

The judgment of the District Court is reversed.

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Courthouse in the City of New York, on the twenty-eighth day of September, one thousand nine hundred and sixty-five.

Present: HON. LEONARD P. MOORE, HON. IRVING R. KAUFMAN,

Circuit Judges.

THE SECOND NATIONAL BANK OF NEW HAVEN,
EXECUTOR OF THE WILL OF FREDERICK F. BREWSTER,
LATE OF HAMDEN, DECEASED,

Plaintiff - Appellant,

vs.

UNITED STATES OF AMERICA,

Defendant - Appellant.

Appeal from the United States District Court for the District of Connecticut.

This cause came on to be heard on the transcript of record from the United States District Court for the District of Connecticut, and was argued by counsel.

ON CONSIDERATION WHEREOF, it is now hereby ordered, adjudged, and decreed that the judgment of said District Court be and it hereby is reversed in accordance with the opinion of this court.

A. DANIEL FUSARO
Clerk

Internal Revenue Code of 1954:

SEC. 2056. BEQUESTS, ETC., TO SURVIVING SPOUSE.

(a) *Allowance of Marital Deduction.* For purposes of the tax imposed by section 2001, the value of the taxable estate shall, except as limited by subsections (b), (c), and (d), be determined by deducting from the value of the gross estate an amount equal to the value of any interest in property which passes or has passed from the decedent to his surviving spouse, but only to the extent that such interest is included in determining the value of the gross estate.

(b) *Limitation in the Case of Life Estate or Other Ter-Terminable Interest.* —

• • •

(4) Valuation of interest passing to surviving spouse. — In determining for purposes of subsection (a) the value of any interest in property passing to the surviving spouse for which a deduction is allowed by this section —

(A) there shall be taken into account the effect which the tax imposed by section 2001, or any estate, succession, legacy, or inheritance tax, has on the net value to the surviving spouse of such interest; and

(B) where such interest or property is encumbered in any manner, or where the surviving spouse incurs any obligation imposed by the decedent with respect to the passing of such interest, such encumbrance or obligation shall be taken into account in the same manner as if the amount of a gift to such spouse of such interest were being determined.

(5) *Life estate with power of appointment in surviving spouse.* — In the case of an interest in property passing

from the decedent, if his surviving spouse is entitled for life to all the income from the entire interest, or all the income from a specific portion thereof, payable annually or at more frequent intervals, with power in the surviving spouse to appoint the entire interest, or such specific portion (exercisable in favor of such surviving spouse, or of the estate of such surviving spouse, or in favor of either, whether or not in each case the power is exercisable in favor of others), and with no power in any other person to appoint any part of the interest, or such specific portion, to any person other than the surviving spouse —

(A) the interest or such portion thereof so passing shall, for purposes of subsection (a), be considered as passing to the surviving spouse, and

(B) no part of the interest so passing shall, for purposes of paragraph (1)(A), be considered as passing to any person other than the surviving spouse.

This paragraph shall apply only if such power in the surviving spouse to appoint the entire interest for such specific portion thereof, whether exercisable by will or during life, is exercisable by such spouse alone and in all events.

• • •

(c) *Limitation on Aggregate of Deductions.* —

(1) *General rule.* — The aggregate amount of the deductions allowed under this section (computed without regard to this subsection) shall not exceed 50 per cent of the value of the adjusted gross estate, as defined in paragraph (2).

(2) *Computation of adjusted gross estate.* —

(A) *General rule.* — Except as provided in sub-paragraph (B) of this paragraph, the adjusted gross estate

shall, for purposes of subsection (c)(1), be computed by subtracting from the entire value of the gross estate the aggregate amount of the deductions allowed by sections 2053 and 2054.

(d) *Disclaimers.* —

(1) *By surviving spouse.* — If under this section an interest would, in the absence of a disclaimer by the surviving spouse, be considered as passing from the decedent to such spouse, and if a disclaimer of such interest is made by such spouse, then such interest shall, for the purposes of this section, be considered as passing to the person or persons entitled to receive such interest as a result of the disclaimer.

(2) *By any other person.* — If under this section an interest would, in the absence of a disclaimer by any person other than the surviving spouse, be considered as passing from the decedent to such person, and if a disclaimer of such interest is made by such person and as a result of such disclaimer the surviving spouse is entitled to receive such interest, then such interest shall, for purposes of this section, be considered as passing, not to the surviving spouse, but to the person who made the disclaimer, in the same manner as if the disclaimer had not been made.

(e) *Definition.* — For purposes of this action, an interest in property shall be considered as passing from the decedent to any person if and only if —

(1) such interest is bequeathed or devised to such person by the decedent;

(2) such interest is inherited by such person from the decedent;

(3) such interest is the dower or curtesy interest (or statutory interest in lieu thereof) of such person surviving spouse of the decedent;

(4) such interest has been transferred to such person by the decedent at any time;

(5) such interest was, at the time of the decedent's death, held by such person and the decedent (or by them and any other person) in joint ownership with right of survivorship;

(6) the decedent had a power (either alone or in conjunction with any person) to appoint such interest and if he appoints or has appointed such interest to such person, or if such person takes such interest in default on the release or nonexercise of such power; or

(7) such interest consists of proceeds of insurance on the life of the decedent receivable by such person.

Except as provided in paragraph (5) or (6) of subsection (b), where at the time of the decedent's death it is not possible to ascertain the particular person or persons to whom an interest in property may pass from the decedent, such interest shall, for purposes of sub-paragraphs (A) and (B) of subsecsection (b)(1), be considered as passing from the decedent to a person other than the surviving spouse.

(26 U.S.C. 1958 ed., Sec. 2056.)

II General Statutes Of Connecticut, Revision of 1958 (Rev. 1964):

Sec. 12-400. "Persons interested in the estate," defined. For the purpose of this chapter, "persons interested in the estate" includes all persons who may be entitled to receive or who

have received any property or interest which is required to be included in the gross estate of a decedent or any benefit with respect to any such property or interest whether under a will or intestacy or by reason of any of the transfers, trusts, estates, rights, powers and relinquishment of powers, as severally enumerated in the United States internal revenue code.

Sec. 12-401. Proration of estate taxes. Procedure. (a) When it appears from any administration account, or in any appropriate proceeding in the probate court that an executor, administrator, temporary administrator, trustee or other person acting in a fiduciary capacity has paid a death tax levied or assessed under the provisions of chapter 217, hereinafter called the Connecticut estate tax, or under the provisions of the United States internal revenue code or under any death tax law of the United States hereafter enacted, hereinafter called the federal estate tax, upon or with respect to any property required to be included in the gross estate of a decedent under the provisions of any such law, the amount of the tax so paid, except when a testator otherwise directs in his will or when, by written instrument executed inter vivos, direction is given for apportionment within the fund of taxes assessed upon the specific fund dealt with in such inter vivos instrument, shall, except as hereinafter provided in subsection (b), be equitably prorated among the persons interested in the estate to whom such property is or may be transferred or to whom any benefit accrues. Such proration shall be made in the proportion, as near as may be, that the value of the property, interest or benefit of each such person bears to the total value of the property, interests and benefits received by all such persons interested in the estate, except that, in making such proration, allowances shall be made for any exemptions granted by the act, imposing the tax and for any deductions allowed by such act for the purpose of arriving at the value of the net estate

and except that, in cases where a trust is created or other provision made whereby any person is given an interest in income or an estate for years or for life or other temporary interest in any property or fund, the tax on both such temporary interest and the remainder thereafter shall be charged against and paid out of the corpus of such property or fund without apportionment between remainders and temporary estates. In all cases to which this chapter applies, except as hereinafter provided in subsection (b), the executor, administrator or other person acting in a fiduciary capacity shall include as a part of the administration account or other proceeding in the probate court a computation of the proposed proration. Before determining such proration, the probate judge shall, except as hereinafter provided in subsection (c), appoint a time and place for a hearing thereon and shall cause such notice of such hearing to be given to the parties in interest as he directs. In making the proration herein provided for, the credit allowed by the law imposing the federal estate tax for gift taxes paid, or for any estate, inheritance, legacy or succession taxes actually paid with respect to the estate to any state or territory or the District of Columbia, shall be assumed to apply pro rata to all parts of the gross taxable estate subject to such federal estate tax. (b) If the judge of probate finds with or without a hearing thereon, from the administration account or other evidence available to and satisfactory to him, including written consents by those to whom the tax has been charged, that the federal estate tax and Connecticut estate tax, if any, as finally determined, have been paid and that the ultimate burden of such tax or taxes has been borne by a party or parties in interest in a manner satisfactory to them, or to their legal representatives, as evidenced by the written consent of such persons or of their legal representatives, no proration of the federal estate tax or Connecticut estate tax shall be made

unless specially requested by any party in interest. (c) Upon receipt of the computation provided for in subsection (a), the probate judge shall make a determination of the proration of the federal estate tax, if any, in the manner provided by subsection (a), except that, if all parties affected by such proration or their legal representatives endorse upon such computation their approval thereof, no hearing need be held thereon, but such determination may be made ex parte.

Sec. 12-404. Order directing payment of prorated amounts. The probate judge, upon making a determination as provided in section 12,401, shall make an order directing the executor, administrator or other fiduciary to charge the prorated amounts against the persons against whom the tax has been so prorated so far as he is in possession of property or interests of such persons, and directing all other persons against whom the tax has been so prorated or who are in possession of property or interests of such persons to make payment of such prorated amounts to such executor, administrator or other fiduciary.

Sec. 12-405. Appeal. Any person aggrieved by any determination or order made by the probate judge pursuant to this chapter may appeal therefrom to the superior court in the same manner and with the same effect as from other orders or decrees to the probate court.